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## CFHHS to Continue Studies, Monitor Child Abuse and Neglect Topics

The Children, Families, Health, and Human Services Interim Committee will hear national and state perspectives for its study of guardianship, dementia, and children's mental health outcomes when it meets on Jan. 11 in Helena.

Members also will devote time to several aspects of the state's handling of child abuse and neglect complaints.

### SJR 22: Guardianship/Alzheimer's Disease

The committee will start the day by taking up the Senate Joint Resolution 22 study of guardianship and Alzheimer's disease. As part of its ongoing information-gathering efforts, the committee will hear about the following:

- National reform standards for guardianship.
- Home- and community-based services for individuals who are eligible for Medicaid.
- Respite care for caregivers.

### HB 422: Children's Mental Health Outcomes

For the study of children's mental health outcomes, committee members will learn more about ways to measure treatment outcomes. They will also hear about what other states have done to track outcomes or tie payment for mental health services to outcomes.

House Bill 422 requires the committee to develop legislation for a pilot project for improving outcomes and linking provider reimbursement to those outcomes.

Speakers from Minnesota, Tennessee, and Wyoming have been invited to discuss their states' efforts to measure outcomes or use performance-based contracting.

## Child Abuse and Neglect

Because of recent developments concerning the state's handling of child abuse and neglect complaints, the committee has scheduled several presentations and an extended public comment period for this topic.

The committee will hear from the following individuals:

- Will Soller of the Legislative Audit Division, who will talk about the recent performance audit of abuse and neglect investigations.
- Child and Family Ombudsman Traci Shinabarger, who will report on her efforts to help people who contact her about specific Child and Family Services Division (CFSD) cases.
- A representative of the Protect Montana Kids Commission, which Gov. Steve Bullock created in September 2015 to review state child abuse and neglect laws and to suggest improvements to the foster care system.
- CFSD administrator Sarah Corbally, who will discuss the division's staffing and other changes that the division has made in the past six months to improve the handling of cases.
- Cleve Loney of Great Falls, a former legislator who has headed up efforts by grandparents of children in foster care and others who are concerned about the way CFSD handles cases.

## Other DPHHS Monitoring

As part of his regular update to the committee, DPHHS Director Richard Oppen will discuss the agency's other activities. The update will cover, among other things, proposals by the advisory committee planning for the closure of the Montana Developmental Center and DPHHS plans to use a former juvenile correctional facility at Galen for "forensic patients." These are patients who have been charged with or convicted of a crime but have been placed in the DPHHS director's custody for mental health evaluation or treatment.

The 64th Legislature approved money for additional staff to support more forensic beds at the Montana State Hospital but did not approve the funds needed to build the new beds. In September 2015, DPHHS announced it was leasing the Galen facility to treat forensic patients.

## Next Meeting

The committee will meet at 8 a.m. on Jan. 11 in Room 137 of the Capitol in Helena. For more information on the committee's activities and upcoming meeting, visit the committee's website or contact Sue O'Connell, committee staff.

Committee Website: [www.leg.mt.gov/cfhhs](http://www.leg.mt.gov/cfhhs)

Committee Staff: [soconnell@mt.gov](mailto:soconnell@mt.gov) or 406-444-3597

## Broadband and Economic Development Among EAIC February Meeting Topics

Seeking a greater understanding of the state's role in economic development, including the extent of funding for broadband and other activities, is one of the objectives for the Economic Affairs Interim Committee's February meeting. The committee also will continue looking at air ambulance costs, particularly the role that insurance companies have in payments.

## Economic Development and Broadband Funding

The committee's examination of economic development and broadband funding will explore concerns raised at the committee's Aug. 31-Sept. 1 meeting, at which the committee asked for more information related to the funding and scope of broadband development in the state and also expressed interest in mapping broadband capabilities. The February meeting will also include discussions of what local communities are doing to assist broadband expansion.

## Agency Monitoring

Other agenda items for the February meeting include the committee's monitoring of the following agencies and activities:

- State Auditor's Office, including the termination of the Insure Montana program and the Montana Comprehensive Health Association.
- Department of Agriculture, including information on the Board of Hail Insurance.
- Department of Livestock, which under the committee's work plan is subject to a continuing review related to budget concerns during this interim.

## Air Ambulances

As part of its House Joint Resolution 29 study on air ambulance services, the committee will hear from insurers and representatives of air ambulance companies about barriers or incentives for air ambulance companies to be included in insurance networks and company membership options.

At its Dec. 1-2 meeting, the committee heard from hospital directors and air ambulance providers about the history and costs of operating air ambulance services. The committee also heard a summary of key points from a committee survey of air ambulance providers serving Montana, ranging from operating costs to levels of care provided in flight. Jim DeTienne of the Department of Public Health and Human Services reviewed licensing and dispatch protocols and noted that a draft of an air ambulance model act had been produced but was not yet available to the public. Jesse Laslovich of the State Auditor's Office commented about the current lack of autho-

rized oversight of air ambulance billing as related to balance billing by air ambulance providers who are not in insurance networks.

Dec. 1-2 meeting activities also included the following:

- The Montana State Fund, which provides a majority of workers' compensation coverage in Montana, reviewed its budget and financial condition prior to beginning a new regulatory era under the state insurance commissioner on Jan. 1, 2016.
- Committee members heard from the Montana State Fund that workers' compensation claims against the Old Fund have dropped 35 percent and that there was a 60 percent drop in loss reserves. Financial Risk Analysts, an actuarial firm hired by the State Auditor's Office, reported that the range of reserves for the Old Fund should be from at least \$43 million at the low end to a high of \$86 million. These numbers were both lower and higher than those suggested by the Montana State Fund actuary, which were \$33 million at the low end and \$79 million at the high end. The state is responsible for funding these Old Fund claims, which the Montana State Fund administers.
- As part of the Senate Bill 390 study of licensing board fees, speech therapy and audiology practitioners told committee members that high initial fees were keeping some practitioners from applying to work in Montana. They asked that the committee look at ways to address costs and keep initial licensing fees more in line with those of other states.
- Department of Labor and Industry representatives outlined how the department's costs of administration are assessed to licensing boards. A representative of the Board of Public Accountants also reviewed how that board is handling a new budgeting system, allowed under House Bill 560.
- The banking commissioner informed the committee of plans to introduce legislation in the 2017 session to rewrite banking laws.
- Board of Livestock representatives told the committee about industry-recommended changes for Department of Livestock operations, a proposal for combining laboratories that have a livestock-related focus, audits that are under way on department finances and the Veterinary Diagnostic Laboratory, and industry concerns about a proposed milk and dairy products assessment for which a public hearing has been set for January.

## Next Meeting

The committee will meet on Feb. 4-5 in Room 137 of the Capitol in Helena at a time to be determined. For more information on the committee's activities and upcoming meeting, visit the committee's website or contact Pat Murdo, committee staff.

Committee Website: [www.leg.mt.gov/eaic](http://www.leg.mt.gov/eaic)

Committee Staff: [pmurdo@mt.gov](mailto:pmurdo@mt.gov) or 406-444-3594

## ETIC to Tackle Net Metering

The Energy and Telecommunications Interim Committee will meet on Jan. 15 to dig into its net metering assignment. The committee will discuss compensation policies for net-metered customers and review the economic impacts of net metering.

### Study Background

Senate Joint Resolution 12 requested "a review of the methodologies for valuing power including power produced by the net metering facility and transferred to the utility and power produced by the utility and sold to the person net metering."

Under Montana's current net metering policy, customers are charged for the electricity they consume or buy from the utility and are credited for the kilowatt-hours they put back onto the grid by generating electricity in excess of what they consume. Customers are credited for the excess energy at the full retail rate charged for consumption, with monthly bills being the net difference between the kilowatt-hours produced and the kilowatt-hours consumed.

### Examining Costs and Compensation

Questionnaires provided by the ETIC to net metering stakeholders in June asked primarily about the costs and benefits of net metering and about the compensation policy. The stakeholders generally agree that the owners and operators of net metering facilities should provide reasonable, cost-based compensation for the utility services they use and also be fairly compensated for the services they provide. Stakeholders also appear to agree that net-metered customers should pay their fair share of grid costs and be compensated for their energy.

However, agreement ends there. The renewable energy industry and the utilities are far apart on the calculations of net benefits and costs flowing between the utility, its net-metered customers, and its non-net-metered customers. The renewable energy industry provides a breakdown of costs and benefits showing that net-metered customers are undercompensated, whereas utilities provide a breakdown of costs and benefits showing that net-metered customers are overcompensated. A legislative staff overview of responses to

the ETIC questionnaire is available on the ETIC web page for the Jan. 15 meeting.

ETIC members in January will have an opportunity to review the responses as well as to ask stakeholders follow-up questions. The ETIC also may begin to formulate a baseline for findings and recommendations on net metering.

### **Examining Economic Development Impacts**

SJR 12 also requires the ETIC to examine economic development impacts of net metering systems in the following ways:

- Reviewing revenue generated by businesses that sell and install net metering systems in Montana.
- Analyzing employment statistics for businesses that sell and install net metering systems in Montana.
- Reviewing tax revenue generated by net metering systems, including the increased taxable value of residential and commercial properties with net metering systems.

At the January meeting, the committee will receive background information and hear from the renewable energy industry on economic impacts.

### **Next-Generation 9-1-1**

The ETIC, guided by House Joint Resolution 7, began its review of next-generation 9-1-1 (NG911) in September. At that meeting, committee members said they would like stakeholders to work together on NG911 to provide the ETIC with recommendations on planning for and implementing NG911. Stakeholders have been meeting monthly since September to discuss NG911 and, along with an advisory council formed by the governor, will provide the ETIC with an update in January.

The stakeholder group is developing a Montana-specific definition for NG911 to assist the Legislature in planning for NG911. Stakeholders have found that planning and implementing NG911 will likely require coordination and partnerships among government agencies, private entities, and multiple public safety entities. Implementation of NG911 also may require an in-depth review of budgetary considerations, governance structures, and regulations needed to address emerging technologies.

### **Colstrip Units 1 and 2**

During the January meeting, the ETIC also will review legislation related to the Colstrip Generating Units 1 and 2 that is expected to be introduced in the Washington Legislature in January. The legislation aims to reduce Puget Sound Energy's use of coal-fired generation from Colstrip. The ETIC may provide comments. (For more details, see "The Back Page" at the end of this newsletter.)

### **Next Meeting**

The ETIC will meet at 8 a.m. on Jan. 15 in Room 172 of the Capitol in Helena. For more information on the committee's activities and upcoming meeting, visit the committee's website or contact Sonja Nowakowski, committee staff.

Committee Website: [www.leg.mt.gov/etic](http://www.leg.mt.gov/etic)

Committee Staff: [snowakowski@mt.gov](mailto:snowakowski@mt.gov) or 406-444-3078

### **111d Subcommittee to Continue Its Work**

At its January meeting, the 111d Subcommittee will continue its work tracking implementation of the federal Clean Power Plan and will hear from national speakers about the U.S. Environmental Protection Agency's rules requiring states to reduce the power sector's carbon dioxide emissions by 2030. (The rules are also known as the EPA's Proposed Clean Power Plan, the 111d regulations, or the 111d Rule.)

The final Clean Power Plan rules were issued by the EPA on Aug. 3 and require, in general, that states reduce carbon dioxide emissions in the power sector by about 32 percent below 2005 levels by 2030.

### **NCSL Workshop**

The National Conference of State Legislatures hosted a Clean Power Plan policy workshop in Washington, D.C., in November. At the January meeting, Glen Andersen of NCSL will provide the subcommittee with an overview of the Clean Power Plan and information about how states are responding to the federal rules.

Thomas Lorenzen, a partner in Crowell & Moring's office in Washington, D.C., and a member of the firm's Environment & Natural Resources group and Government Affairs group, will provide the subcommittee with a legal outlook. From 2004 to 2013, Lorenzen was an assistant chief at the U.S. Department of Justice, where he supervised the federal government's legal defense of all EPA rules. Montana is one of 26 states challenging the Clean Power Plan rules in court. Lorenzen will discuss legal issues and potential outcomes of challenging the rules. Montana's Office of Attorney General will also update the subcommittee on its work with respect to these rules.

Jordan Kislear of the U.S. Department of Energy will discuss potential options for using coal while still meeting the EPA's emission requirements. Kislear currently serves as director of government affairs and analysis with the DOE's Office of Clean Coal and Carbon Management. The subcommittee also will learn about the role of renewable energy and energy efficiency with respect to the rules.



The subcommittee will also be updated on the activities of Governor Bullock's Montana Clean Power Plan Advisory Council. The governor in November issued an executive order creating the Clean Power Plan Advisory Council to assist the DEQ as it submits information to the EPA for compliance with the federal rules. More than 90 people have applied for a spot on the council. Appointments of 25 to 30 members are expected to be made in early 2016.

### Next Meeting

The 111d Subcommittee will meet at 1 p.m. on Jan. 14 in Room 172 of the Capitol in Helena. For more information on the subcommittee's activities and upcoming meeting, visit the subcommittee's website or contact Sonja Nowakowski, subcommittee staff.

Subcommittee Website: [www.leg.mt.gov/css/Committees/Interim/2015-2016/EQC/111d-Subcom/default.asp](http://www.leg.mt.gov/css/Committees/Interim/2015-2016/EQC/111d-Subcom/default.asp)

Subcommittee Staff: [snowakowski@mt.gov](mailto:snowakowski@mt.gov) or 406-444-3078

## Sage Grouse, Hunting Access, and Elk Headline January EQC Agenda

The Legislative Environmental Quality Council will meet on Jan. 13-14 to hear the latest on how state agencies are implementing new sage grouse conservation directives and to learn about hunting access programs and elk harvesting in Montana.

### Sage Grouse Strategy

The bipartisan council will hear from the heads of the Department of Environmental Quality and the Department of Natural Resources and Conservation, as well as from the Board of Oil and Gas Conservation, about their work to implement the Montana Sage Grouse Conservation Strategy. The strategy includes stipulations for new development in sage grouse habitat and a competitive grant program for conservation measures. Gov. Steve Bullock directed that the strategy be fully implemented by Jan. 1, 2016.

### Hunting Access and Elk Management

Hunting access programs at the Department of Fish, Wildlife, and Parks are also up for review at the January meeting. Implementation of new game damage hunting rules and elk shoulder seasons will also be discussed.

As part of its study of federal land road management, the EQC will examine harvest rates for elk and deer in relation to roads and inaccessible public lands.

As tasked by House Joint Resolution 13, sponsored by Rep. Kerry White (R-Bozeman) and passed during the 2015 session, the EQC is assessing road closures on federal lands over

the past 35 years, identifying landlocked parcels of public land, and evaluating deer and elk trends in relation to limited access to federal lands.

### Agency Program Evaluation

As part of its duty to oversee the work of the DEQ, DNRC, and FWP, the committee is evaluating specific programs within each agency. In addition to hunting access, other programs being reviewed in January include nongame, threatened, and endangered species management at FWP and minerals management at DNRC. Comments are encouraged from anyone with an interest in the programs.

### State Parks

Montana's state parks are also on the council's January agenda. The council will discuss recent inventories of facility conditions conducted at 33 state parks, a strategic plan developed by the State Parks and Recreation Board, and policy directives from that board on land acquisition and the transfer and prioritization of resources.

### Colstrip Generating Station

With the Washington Legislature heading into session in January, the council will receive an update on expected legislation to address Washington's continued use of electricity produced by coal-fired generation at the Colstrip Generating Station.

### Next Meeting

The council will meet on Jan. 13-14 in Room 317 of the Capitol in Helena. The meeting will begin at 8 a.m. on Jan. 13. For more information on council activities and the upcoming meeting, visit the council's website or contact Joe Kolman, council staff.

Council Website: [www.leg.mt.gov/eqc](http://www.leg.mt.gov/eqc)

Council Staff: [jkolman@mt.gov](mailto:jkolman@mt.gov) or 406-444-3747

## Judicial Redistricting Commission Continues Work

The Judicial Redistricting Commission meets again in early February to continue its study of whether Montana's district court boundaries should be revised. The commissioners will receive updated judicial workload information for 2015 as well as information they requested at their September organizational meeting. The commission will also listen to public comment and discuss next steps in the study. An agenda and other meeting materials will be available in mid-January.

## Next Meeting

The commission will meet at 9 a.m. on Feb. 2 in Room 137 of the Capitol in Helena. For more information on the commission's activities and upcoming meeting, visit the commission's website or contact Rachel Weiss, commission staff.

Commission Website: [www.leg.mt.gov/jrc](http://www.leg.mt.gov/jrc)

Commission Staff: [rweiss@mt.gov](mailto:rweiss@mt.gov) or 406-444-5367

## LJIC Focused on Sexual Assault Study in November

During its Nov. 30 meeting, the Law and Justice Interim Committee deepened its understanding of how both the language of a state's sexual assault laws and societal attitudes about sexual assault crimes can affect public and criminal justice system responses to these crimes. In addition, the members learned more about best practices for treating and supervising convicted sex offenders. Both topics came before the LJIC as part of its Senate Joint Resolution 24 study of sexual assault in Montana.

## Expert Testimony

Anne Munch, a former prosecutor from Colorado and an expert in helping the military, universities, and communities improve responses to sexual assault crimes, spent several hours working with the LJIC to establish the connection between cultural perspectives on sexual assault and the legal framework governing sexual assault crimes. Munch, who also serves as a technical advisor to the Montana Department of Justice in its work with the Missoula community on this issue, used examples of cases she has prosecuted and situations she has encountered to share with the committee how perceptions of sexual assault can affect attempts to revise the laws and policies on how sexual assaults are reported and prosecuted.

Munch's multimedia presentation included an overview of the history and trends of states' laws as well as her suggestions for state or military laws the committee could emulate when considering revisions to Montana's statutes. Munch concluded by reviewing research on false reporting and then fielding questions from committee members.

## Not in Our State Summit and University Programs

Sen. Diane Sands (D-Missoula) updated committee members on the recent Not in Our State Statewide Summit on Sexual Assault, a university training conference held in Missoula at which Sands and other legislators presented.

After the update, Clayton Christian, Montana's commissioner of higher education, and Lucy France, the general counsel for the University of Montana, spoke about the adoption by the

Montana University System (MUS) of systemwide best practices for responses to sexual assault, the sexual assault prevention and safe alcohol use training MUS requires of students, and the process used to enforce violations of student codes of conduct. Both Christian and France stressed the difference between the universities' responsibilities under the federal Title IX statutes to provide a safe educational environment and their responsibilities under the state's criminal laws and justice system. They also discussed various statistics the university system collects and reports, including the challenges that come with those efforts.

## State Prison Programs and Community Supervision

After lunch, Blair Hopkins, the treatment program manager at the Montana State Prison (MSP), provided background on the services offered at the prison, the phases of sex offender treatment, when and how offenders are required to take certain programs, and how MSP prioritizes its offender waiting list for treatment. He noted that, typically, it can take three years to move an offender through the treatment phases and that the programs are offered only at MSP and not at regional or private prisons.

Dawn Handa, administrator in the Department of Corrections' region III probation and parole office in Great Falls, then discussed how offenders transition from treatment in the prison setting to the community. She reviewed best practices for supervising offenders and noted that practices are shifting to require more of supervising officers than just surveillance when working with released offenders.

Both Handa and Hopkins noted several hurdles to successful treatment and community transition for sex offenders, including limitations on treatment opportunities and housing and employment options.

## Treatment Providers, Research, and Methodologies

Continuing the theme of how sex offenders are treated and managed in community settings, a panel of treatment providers from various areas of the state highlighted when and how they interact and treat this type of offender. Andy Hudak from Whitefish discussed recent research into brain functions and effective treatment methods. Michael Sullivan from Billings reviewed psychosexual evaluations of sex offenders, including when an evaluation is required, who can request the evaluation, and what the process entails. He also discussed the various risk levels that state law requires to be assigned to sex offenders and recidivism data for sex offenders. Brenda Erdelyi from Missoula then reviewed challenges that treatment providers face when treating offenders in the community, including the scarcity of inpatient chemical dependency programs and prerelease beds open to sex offenders, limited housing and employment options, and community perceptions about returning offenders.

## Department of Justice Efforts

Jon Bennion updated the LJIC on the Department of Justice's work to reduce the number of offenders who are registered in the state's sexual or violent offender registry but who don't have a risk tier level assignment. He also discussed the reasons offenders might not have a tier level assignment, the corresponding tool or step the department can use or take to assign a tier level to the offender, and DOJ's efforts to ensure that the tier assignment process is completed properly on the front end.

## Additional Information

After taking public comment on the SJR 24 study, the LJIC listened to reports from its staff on the committee's agency oversight duties, including the committee's duty to review (1) administrative rules, (2) certain required reports and the statutes requiring the reports, and (3) the statutes establishing advisory councils attached to the committee's assigned entities. The LJIC also received an update about the work of the Commission on Sentencing established by Senate Bill 224.

During its work session, the LJIC requested the following additional information:

- An update from DOC about its compliance with the Prison Rape Elimination Act.
- More information on sexual assault prevention and education efforts.
- A short update on any K-12 curriculum related to sexual assault and abuse.

The LJIC also decided to move its Feb. 22-23 meeting to early March.

## Next Meeting

The LJIC will meet on March 8-9 in Room 102 of the Capitol in Helena at a time to be determined. For more information on the committee's activities and upcoming meeting, visit the committee's website or contact Rachel Weiss, committee staff.

Committee Website: [www.leg.mt.gov/ljic](http://www.leg.mt.gov/ljic)

Committee Staff: [rweiss@mt.gov](mailto:rweiss@mt.gov) or 406-444-5367

## Legislative Council to Discuss Legislator Pay and Other Topics

The tentative agenda for the Legislative Council's February meeting includes the following topics:

- Bills on legislator pay from the 2015 session.
- Additional research on grants of rulemaking authority and separation of powers.
- TVMT options and proposals.
- Remote meeting possibilities.
- Caucus and orientation planning for the 2017 session.
- Proposed guidelines for legislator appointments and constituent services accounts.

## Next Meeting

The Legislative Council will meet at 9 a.m. on Feb. 9 in Room 102 of the Capitol in Helena.

For more information on the council's activities and upcoming meeting, visit the council's website or contact Susan Byorth Fox, council staff.

Council Website: [www.leg.mt.gov/legcouncil](http://www.leg.mt.gov/legcouncil)

Council Staff: [sfox@mt.gov](mailto:sfox@mt.gov) or 406-444-3066

## LFC Reviews Budget, Long-Range Building, and Policy Choices

At its December meeting, the Legislative Finance Committee received reports on budget status, the state's long-range building program, and base budget policy.

## Budget Status

Legislative Fiscal Division staff presented a budget status report that included an analysis of all changes to departmental budgets and expenditures to date. The status report also included a summary of program transfers, reorganizations, operational plan changes, budget amendments, statutory appropriations, and carry forward appropriations.

## Long-Range Building Program

LFD staff also reported on the state's building inventory, building ownership by agency, and the state's long-range building program administered by the Department of Administration. A panel of representatives from three of the state entities with the largest building footprint explained their processes for assessing, managing, and prioritizing capital improvement needs. Legislative staff and agency personnel will continue to provide information to the committee on state buildings and capital improvements, with a presentation

scheduled for the March LFC meeting addressing leased space compared to owned space.

## Budget Policy Choices

Also at the December meeting, Barbara Smith of LFD presented a report on the base budget choices for the 2019 biennium. The committee voted on and unanimously approved using FY 2017 ongoing appropriations as the base budget starting point for the FY 2019 biennial budget. Modifications to the legislative budget made by the executive branch during the interim will be included. These changes will be presented to the Legislature in LFD's budget analysis for the FY 2019 biennial budget.

## Other Presentations

Other presentations at the December meeting included the following:

- A Medicaid monitoring report by Scot Conrady of LFD indicated that the Department of Public Health and Human Services is projected to have sufficient budget authority to pay Medicaid benefits in FY 2016.
- Quinn Holzer of LFD presented an update on the status of the Medicaid expansion authorized by Senate Bill 405, the HELP Act. Holzer reported that two waiver approvals were received on Nov. 2 from the Centers for Medicare and Medicaid Services, which allow Montana to proceed with implementing the Montana HELP Act. Enrollment began immediately, and Blue Cross and Blue Shield of Montana was chosen as the third-party administrator for those eligible under the waivers. Benefits will be provided beginning Jan. 1, 2016.
- Chief Information Officer Ron Baldwin of the State Information Technology Services Division reported on the state IT budget proposal for the 2017 session.
- Marie Matthews of DPHHS reported on the status of the Medicaid Management Information Systems program.
- LFD staff updated the committee on the House Joint Resolution 27 statutory appropriations study.
- Dore Schwinden of the Montana Public Employee Retirement Administration and Denise Pizzini of the Teachers' Retirement System provided updates on the actuarial status of public employee retirement systems.
- LFD staff provided an analysis of state assistance for K-12 facility improvements since 2003, along with an overview of the K-12 building inventory and total annual K-12 capital improvement investment.
- A panel of school budget officials presented their perspectives and experiences regarding financing capital improvements at the school district level. The panel also provided

an overview of typical funding resources available to K-12 schools for capital improvements. For the March LFC meeting, legislative staff will provide the results of the staff's research into K-12 capital improvement budgets and levies.

- The Montana Department of Justice updated the committee on matters related to the House Joint Resolution 8 study of funding for the Montana Law Enforcement Academy.

## 40th Anniversary

Following the meeting, committee members and staff gathered in the Capitol rotunda to celebrate the LFC's 40th anniversary. LFD staff member Stephen Forrest gave a brief history of the LFC from its founding. Sen. Llew Jones (R-Conrad), a former committee presiding officer, also addressed the gathering, and several individuals shared fond memories about the LFC through history.

## Next Meeting

The committee will meet on March 10-11 in Room 152 of the Capitol in Helena. The meeting will begin at 10 a.m. on March 10. For more information on the committee's activities and upcoming meeting, visit the committee's website or contact Legislative Fiscal Analyst Amy Carlson.

Committee Website: [www.leg.mt.gov/lfc](http://www.leg.mt.gov/lfc)

Committee Staff: [acarlson@mt.gov](mailto:acarlson@mt.gov) or 406-444-2988

## RTIC Continues Several Studies; Poll Results In on SB 410 Rule

The Revenue and Transportation Interim Committee met on Nov. 30-Dec. 2 in Helena. The committee continued work on the studies discussed below and received reports from the departments of Revenue and Transportation, the Montana Tax Appeal Board, and the Legislative Fiscal Division concerning revenue.

### Poll Results on Rule Implementing SB 410

At least 20 legislators objected to a Department of Revenue proposed rule implementing Senate Bill 410, a bill passed during the 2015 session that established two new tax credits for certain contributions for public school and private school programs. The proposed rule provides a definition that would prohibit contributions for sectarian or religious schools. Because of the legislator objections, the committee was required by statute to conduct a poll of all 150 legislators about whether the rule is consistent with or contrary to legislative intent. The poll concluded at 5 p.m. on Nov. 24.

Fifteen senators voted that the proposed rule is consistent with legislative intent, and 30 senators voted that the pro-



posed rule is contrary to legislative intent. In the House of Representatives, 36 representatives voted that the rule is consistent with legislative intent, and 59 representatives voted that the rule is contrary to legislative intent. The poll results were published with the rule as required by law.

### **Tax Increment Financing Study**

Janet Cornish, acting as a consultant on tax increment financing, presented an overview of laws governing the creation, operation, and termination of urban renewal districts and targeted economic development districts. These districts use tax increment financing to address issues of blight or to promote economic development in the district.

The committee also received input from a panel of local representatives on how these current laws are working. Possible areas for additional work raised during the discussion included the following with respect to the districts:

- The length of time that the districts may exist.
- The timing of public hearing requirements.
- The involvement of other taxing jurisdictions.
- Allowing a private right of action for an aggrieved party.
- Ensuring existing laws are followed.

### **Elderly Homeowner/Renter Credit Study**

At the Nov. 30-Dec. 2 meeting, the committee also received a presentation covering the history of excluding eligibility criteria for the elderly homeowner/renter credit. The laws that originally enacted the credit provided that the credit be available only for property on which property taxes are paid. The 1989 Legislature amended the law to allow the credit for elderly residents who rent from a county or municipal housing authority, which is tax-exempt property.

The committee will continue to examine eligibility criteria for the credit and consider whether to recommend changes to current law. The main area of consideration is whether residents of tax-exempt health care facilities should be eligible to claim the credit. Under current law, they are ineligible.

### **Highway State Special Revenue Account Study**

The agencies that use funds from the highway state special revenue account (HSRA) — the Department of Transportation, the Highway Patrol, and the Motor Vehicle Division of the Department of Justice — spoke to the committee at the meeting on the status of the account, which is funded largely by state fuel taxes.

The committee also learned the funding history of the Highway Patrol and the Motor Vehicle Division from the HSRA. In addition, the Department of Transportation presented

information about the asset management program used to allocate funds based on performance goals. The presentations resulted in numerous committee requests for additional information that will be provided over the next two committee meetings.

### **Local Government Revenue-Generating Capacity**

Representatives of county and city governments offered comments to the committee in two separate panel discussions during the meeting. The wide-ranging panel discussions included a request from a panel member for an interim committee devoted to only local government financing. The discussions also covered jail costs for counties, the costs associated with new development in cities, and property taxes as the main source of local government revenue.

### **Treatment of Intangible Property**

Karen Powell, a law professor and former chair of the Montana Tax Appeal Board, presented the committee with research on the treatment of intangible property for centrally assessed property valuation in Montana and in other states with similar property tax systems. The presentation included policy options for the committee's consideration.

### **Property Taxable Value Neutrality**

The committee also continued work on its study of property taxable value neutrality and received a presentation from the Department of Revenue on approaches to valuing property. The department discussed the cost approach, income approach, and market approach and the properties for which the different approaches are used.

### **Nonprofit Reporting of Community Benefits**

Legislative staff presented a research report on the federal and state reporting requirements for tax-exempt organizations. The research found that many income-tax-exempt organizations must file a Form 990, or one of its variations, with the Internal Revenue Service. State requirements of income-tax-exempt organizations vary, with most states requiring filing of a report if the organization solicits donations.

Information on reporting requirements for property-tax-exempt organizations was more difficult to ascertain, but it seems that few states require annual reporting.

### **Taxation of International Corporations**

The committee also received at the meeting a high-level overview of corporate income tax systems across the country that showed a trend in required mandatory combined reporting and an increased weighting of the sales factor. Montana has mandatory combined reporting but weights the sales, property, and income factors equally, as did most states 20 years ago.

The report also discussed the following:

- Differing definitions of “unitary.”
- Treatment of international affiliates.
- The nexus of members of a unitary group.
- Tax rates in the states.

### Agency Monitoring

The Department of Revenue presented at the meeting an analysis of the quality of the recent residential and commercial reappraisals. The analysis showed that the 2015 reappraisal meets or exceeds the International Association of Assessing Officers standards of appraisal quality in most cases. The department also updated the committee on property value appeals.

The Department of Transportation provided a required inventory and detailed maintenance plan for shared-use paths and updated the committee on the status of federal highway funding.

The Montana Tax Appeal Board provided an update of cases filed with the board.

### Revenue Estimating and Monitoring

The Legislative Fiscal Division updated the committee on revenue trends. The revenue trend for the 2017 biennium is, in aggregate, consistent with what is reflected in House Joint Resolution 2, the Legislature’s revenue estimate. The committee also received a requested presentation on vehicle transaction data.

### Next Meeting

The committee will meet on March 10-11 in Room 102 of the Capitol in Helena at a time to be determined. For more information on the committee’s activities and upcoming meeting, visit the committee’s website or contact Megan Moore, committee staff.

Committee Website:

[www.leg.mt.gov/rtic](http://www.leg.mt.gov/rtic)

Committee Staff: [memoore@mt.gov](mailto:memoore@mt.gov) or 406-444-4496

## SAVA Certifies Poll Results on Campaign Finance Rules

After 23 legislators objected to 16 administrative rules proposed by the commissioner of political practices (COPP), the State Administration and Veterans’ Affairs Interim Committee was required by law to conduct a poll of the full Legislature. Committee presiding officer Sen. Dee Brown (R-Hungry Horse) and vice presiding officer Rep. Bryce Bennett (D-Missoula) certified the poll’s results, which are provided in the accompanying table.

The poll asked legislators to vote on each of the 16 rules by identifying whether they considered the rule to be consistent with legislative intent or contrary to legislative intent. The text of each rule is available on a special web page created for the poll and accessible through the committee’s website.

Rule No. in MAR Notice No. 44-2-207	Senator Vote Totals		Representative Vote Totals	
	Consistent with Intent	Contrary to Intent	Consistent with Intent	Contrary to Intent
New Rule I	26	20	52	33
New Rule IV	27	19	50	35
New Rule V	26	20	50	35
New Rule VI	31	15	52	33
New Rule VII	26	20	49	36
New Rule VIII	26	20	49	36
New Rule X	26	20	50	35
New Rule XI	27	19	51	34
New Rule XII	26	20	50	35
Amended 44.10.201	34	12	65	19
Amended 44.10.301	26	20	50	35
Amended 44.10.307	27	19	50	35
Amended 44.10.321	26	19	49	36
Amended 44.10.323	26	20	49	36
Amended 44.10.327	26	20	49	36
Amended 44.10.329	26	20	49	36

Four senators and 15 representatives did not return a ballot. A spreadsheet showing votes by individual legislators is available from the Legislative Services Division upon request.

The proposal notice for the COPP rules (which included more than the 16 rules on which the poll was conducted) was published in the Montana Administrative Register (MAR) on Aug. 13. After public comment and revisions, the rules were adopted on Nov. 24 when the COPP sent the final text of the rules to the secretary of state. The rules will become effective when the final rules are published in the MAR. The secretary of state is expected to publish the rules, along with the poll results on the 16 rules included in the poll, in the Jan. 8 issue of the MAR.

The poll was conducted on the proposed rules as published in MAR Notice No. 44-2-207 on Aug. 13, rather than on the revisions to the rules contemplated after public comment. Statute requires that the poll results be published with the adopted rules. Section 2-4-404, MCA, states that “the results of the poll must be admissible in any court proceeding involving the validity of the proposed rule or the validity of the adopted rule if the rule was adopted by the agency. If the poll determines that a majority of the members of both houses find that the proposed rule or adopted rule is contrary to the intent of the legislature, the proposed rule or adopted rule must be conclusively presumed to be contrary to the legislative intent in any court proceeding involving its validity.”

### Next Meeting

The committee will meet on Feb. 10 in Room 137 of the Capitol in Helena at a time to be determined. For more information on the committee’s activities and upcoming meeting, visit the committee’s website or contact Sheri Scurr, committee staff.

Committee Website: [www.leg.mt.gov/sava](http://www.leg.mt.gov/sava)

Committee Staff: [sscurr@mt.gov](mailto:sscurr@mt.gov) or 406-444-3596

## Task Force on State Public Defender Operations Continues Work

The Task Force on State Public Defender Operations met on Dec. 10 and continued its examination of the operations of the Office of the State Public Defender as directed under House Bill 627.

Topics covered at the meeting included the following:

- Legal and policy guidelines affecting OPD-employed and OPD-contracted attorneys.
- Various elements and considerations in determining client eligibility.

- Attorney conflicts of interest.
- Oversight and evaluation of contract attorneys.
- OPD-employed attorneys providing pro bono representation outside of their OPD duties.
- In-depth examination with OPD staff of a range of financial, personnel, management, and performance information and data.
- The American Bar Association’s “Ten Principles of a Public Defense Delivery System.”
- Public defense systems in several other states and jurisdictions.

### More Work to Be Done

Going forward, task force members will continue to examine how the Office of the State Public Defender operates, learn more about how indigent defense services are provided in other jurisdictions, and narrow the scope of the members’ interest areas in anticipation of making recommendations and formulating draft legislation for the 2017 session.

### Next Meeting

The task force will meet on Feb. 1 at the Capitol in Helena at a time to be determined. For more information on task force activities and the upcoming meeting, visit the task force’s website or contact Dave Bohyer, task force staff.

Task Force Website: [www.leg.mt.gov/tfspdo](http://www.leg.mt.gov/tfspdo)

Task Force Staff: [dbohyer@mt.gov](mailto:dbohyer@mt.gov) or 406-444-3592

## Water Policy Committee to Ponder Water Court’s Future

At its next meeting on Jan. 11-12, the Water Policy Interim Committee will discuss the future of administering and enforcing water rights in Montana.

### Water Court Study

One of the committee’s three major studies includes a look at the future of the Water Court. The court, located in Bozeman, is determining all pre-1973 water rights through the adjudication process. The court is projected to finish this work around 2028 and would have a limited role after that time under existing state law.

The Water Court study will also examine the water right permitting and change of water right processes administered by the Department of Natural Resources and Conservation and the enforcement of water rights by the state’s district courts.

During its two-day meeting, the committee will also discuss the following:

- Water marketing and water banking. Officials from the state's first ever water mitigation bank will explain their operation, as will representatives of what might be a second water bank in the Gallatin Valley.
- Case studies on water availability. The committee will consider 18 suggestions for a focused case study by the committee. The suggestions include a variety of issues, problems, and potential solutions regarding water availability around Montana.
- Assumption of federal section 404 permitting. The committee will hear from policy experts with the U.S. Environmental Protection Agency, the Oregon Department of State Lands, and the Alaska Division of Water about how Montana might assume this permitting program. The U.S. Army Corps of Engineers now issues 404 permits, also known as "dredge and fill" permits.

### **Next Meeting**

The committee will meet on Jan. 11-12 in Room 172 of the Capitol in Helena at a time to be determined. For more information on the committee's activities and upcoming meeting, visit the committee's website or contact Jason Mohr, committee staff.

Committee Website: [www.leg.mt.gov/water](http://www.leg.mt.gov/water)

Committee Staff: [jasonmohr@mt.gov](mailto:jasonmohr@mt.gov) or 406-444-1640



# The Back Page

## Washington State May Decide the Fate of the Colstrip Generating Station

by Sonja Nowakowski, Legislative Research Analyst  
Montana Legislative Services Division

The fate of the Colstrip Generating Station, once called “the largest investment ever made by private industry in Montana,” rests in the hands of out-of-state political forces.<sup>1</sup> Those out-of-state forces — coupled with a new federal Clean Power Plan and long-term historical and economic forces — may come to bear on one of Montana’s last company towns. For now, the Montana Legislature has been promised a seat at the table when it happens.

The four-unit Colstrip Generating Station is the second-largest coal-fired generating facility west of the Mississippi River. It sits in the crosshairs of growing efforts in the Northwest to reduce carbon dioxide emissions. Although the plant is located in Rosebud County, Montana, about 75 percent of the electricity generated there travels across power lines to Washington and Oregon. Folks in the Northwest aren’t sure they want to keep using that power.

In the next 60 days, Washington state legislators in Olympia will vote to determine, at least in part, the future of the Colstrip Generating Station.

Puget Sound Energy (PSE), a Washington-based energy utility providing electrical power and natural gas in the Puget Sound region of the Northwest and the largest single owner of Colstrip, is under pressure to reduce its reliance on Colstrip from the Washington state utility commission, the Washington governor, and others who decry the environmental impacts and economic costs of coal-fired generation. Organizations like Coal Free Washington, the Beyond Coal Campaign, and Coal Free PSE are active in Washington — and Colstrip is the focus of many of their efforts. “Retiring Colstrip will be the greatest greenhouse-gas reduction ever achieved in the Northwest,” Doug Howell, a senior representative of the Sierra Club’s Beyond Coal campaign, told the *Seattle Times* in September 2015.<sup>2</sup>

In response to the pressure, PSE is pursuing legislation to help reduce its use of electricity generated at the Colstrip station. After the Washington Legislature begins its 2016 session

on Jan. 11, it will take up legislation addressing Washington energy customers’ use of electricity from Montana’s Colstrip Generating Station.

Colstrip has a combined peak output of 2,094 megawatts (MW). Its complex ownership scheme — with six different utilities owning part of the facility — means that Montana has very little control over the fate of a facility that has been hailed as a powerhouse by some and scorned as a source of environmental pollution by others. Most of the power generated at Colstrip travels west to Townsend, over two 500-kilovolt transmission lines. From there, Colstrip power moves across the Bonneville Power Administration’s transmission system and reaches utilities’ individual transmission grids in Washington and Oregon.

Colstrip consists of four separate coal-fired generating units, collectively owned by PSE, Talen Energy, Portland General Electric, Avista Corporation, PacifiCorp, and NorthWestern Energy. Units 1 and 2 were built in the mid-1970s and have 307 MW each of net generating capacity. Units 3 and 4, built in the mid-1980s, have 740 MW each of net capacity. PSE has the largest ownership interest in Colstrip, owning 50 percent of Units 1 and 2 and 25 percent of Units 3 and 4. Colstrip also represents about 30 percent of Montana’s total electric generation capacity.

In 2015, the Washington Legislature considered establishing a process for an electrical company to petition the Washington Utilities and Transportation Commission for a plan to acquire and decommission one or more coal-fired generating units and to secure ratepayer funds for environmental remediation. Because of Colstrip’s complicated ownership structure, a single owner of the plant can’t simply retire one of the units. The Washington legislation would have enabled PSE to buy Talen Energy’s share of Units 1 and 2 and retire those units.

The 2015 legislation failed.<sup>3</sup> The 2016 legislation crafted by PSE — known as the Washington State Eligible Coal Unit Risk Mitigation Act — allows PSE to exceed certain perfor-

<sup>1</sup> Associated Press, “\$1.4 Billion: Colstrip Plant Costs Up,” *Spokesman-Review*, Sept. 13, 1977, p. 6.

<sup>2</sup> Joseph O. Sullivan, “Wean PSE off Montana Coal Power? It’s Not Looking Easy,” *Seattle Times*, Sept. 13, 2015, [www.seattletimes.com/seattle-news/environment/wean-pse-off-montana-coal-power-its-not-looking-easy](http://www.seattletimes.com/seattle-news/environment/wean-pse-off-montana-coal-power-its-not-looking-easy).

<sup>3</sup> SB 5874 (2015-16), <http://app.leg.wa.gov/billinfo/summary.aspx?bill=5874&year=2015>.

mance standards for greenhouse gas emissions in Washington in order to acquire a new interest in Colstrip. PSE would essentially be granted the ability to file plans with the Washington Utilities and Transportation Commission to buy out Talen Energy's share of Unit 3 (PSE would then own 55 percent of Unit 3), as long as efforts were simultaneously made to decommission other units (such as Units 1 and 2, based on an early draft of the PSE legislation). The legislation directs PSE to file a plan in Washington on or before December 31, 2017, to facilitate the mitigation. The draft legislation, however, is expected to change as stakeholders review it.<sup>4</sup>

### Pressure on PSE

Washington voters, elected officials, and environmental groups are targeting coal. Washington state's only coal-fired power plant, owned by TransAlta in Centralia, is already scheduled to shut down by 2025. Washington currently gets less than 14 percent of its electricity from coal, but Washington governor Jay Inslee wants to see that number reduced to zero. In April 2014, Gov. Inslee signed an executive order to limit greenhouse gas emissions in Washington and to create a Carbon Emissions Reduction Taskforce. When carbon reduction efforts and a carbon cap-and-trade proposal before the 2015 Legislature failed, Gov. Inslee also directed the Washington Department of Ecology to develop a regulatory cap on carbon emissions for the state.<sup>5</sup>

Some voters in Washington are not waiting on Gov. Inslee or the Washington Legislature to take steps to curb the use of coal. Signatures are being gathered to place Initiative 732 on the 2016 ballot. I-732 would place a tax on carbon pollution and accelerate the adoption of renewable energy in Washington.<sup>6</sup> Another initiative, launched by the Washington Alliance for Jobs and Clean Energy, would "build on the state's recently announced Clean Air Rule by enforcing existing global warming pollution reduction targets, charging the largest emitters a fee for each ton of carbon pollution they emit. The funds will be invested in accelerating the transition to a clean energy economy and addressing the impacts of carbon pollution on our air, land and people."<sup>7</sup> If enough signatures are gathered, the initiatives will appear on the November 2016 ballot.

In 2015, the Sierra Club and the Montana Environmental Information Center also filed a lawsuit against the owners of Colstrip, alleging violations of the Clean Air Act. A U.S. magistrate judge has scheduled a May trial in Missoula.

The Washington Utilities and Transportation Commission, which regulates PSE, also is exploring options to reduce carbon emissions. The commission is assessing the economic risks associated with continued operation versus retirement of certain coal-fired generating units included in Washington rates, including the costs of Colstrip Units 1 and 2. The commission possesses general authority to investigate the books, accounts, practices, and activities of public service companies, and the Washington commission is concerned about PSE's continued use of Colstrip. When PSE submitted its 2013 Integrated Resource Plan to the Washington commission, the commission found itself unable to conclude that the utility's continued reliance on older coal-fired power plants in Colstrip is justified.<sup>8</sup>

Another piece of the puzzle in terms of Colstrip's future is the useful life of Units 1 and 2. Some entities say that Colstrip Units 1 and 2 are expensive, dirty, no longer viable, and ready for immediate shutdown. They note that efforts to close Colstrip come at a time when cheap natural gas is cutting into coal's role in electricity generation. Natural gas overtook coal as the top source of U.S. electric power generation for the first time in early 2015.<sup>9</sup> Other entities say that Colstrip has not reached the end of its useful life, can be maintained, and should continue operating well into the future. They argue that efforts to close Colstrip are premature and that closure is a "feel good measure." Still other entities say that Colstrip may be reaching retirement but that both Montana and Washington need 8 to 10 years to plan for proper retirement and to outline remediation and decommissioning plans.

### Federal Clean Power Plan

The federal Clean Power Plan rule issued by the Environmental Protection Agency on Aug. 3 will also play a major role in the future of Colstrip and potentially in relationships with Washington. The plan requires reductions in carbon dioxide emissions from existing fossil fuel power plants by 2030. It sets emission reduction levels for each state, and each state

<sup>4</sup>Information current as of Dec. 18, 2015.

<sup>5</sup>"Carbon Pollution Executive Order" (Executive Order 14-04), [www.governor.wa.gov/issues/issues/energy-and-climate/carbon-pollution-executive-order](http://www.governor.wa.gov/issues/issues/energy-and-climate/carbon-pollution-executive-order).

<sup>6</sup>Carbon Washington, <http://carbonwa.org>.

<sup>7</sup>Alliance for Jobs and Clean Energy, <http://jobs-clean-energy-wa.com>.

<sup>8</sup>Washington Utilities and Transportation Commission, letter to Ken Johnson, directory of state regulatory affairs, Puget Sound Energy, Feb. 6, 2014, [https://pse.com/aboutpse/EnergySupply/Documents/IRPAG\\_UTC-Feb6-Letter.pdf](https://pse.com/aboutpse/EnergySupply/Documents/IRPAG_UTC-Feb6-Letter.pdf).

<sup>9</sup>U.S. Energy Information Administration, "Electricity from Natural Gas Surpasses Coal for First Time, but Just for One Month," July 31, 2015, [www.eia.gov/todayinenergy/detail.cfm?id=22312](http://www.eia.gov/todayinenergy/detail.cfm?id=22312).

must develop a plan — or be subject to a federal plan — to meet that goal. The Montana Department of Environmental Quality, along with stakeholders, must develop Montana's plan. The state has until September 6, 2016, to submit a final plan, or an initial state plan with a request for an extension. Final complete state plans must be submitted to the EPA no later than September 2018. The final rule, however, provides 15 years for full implementation of all emissions reduction measures and establishes incremental steps for demonstrating progress.

Montana must develop and implement a plan so that fossil fuel-fired electric facilities, either individually or in combination, achieve interim carbon dioxide performance rates beginning in 2022 and final rates by 2030 (Montana has nine generating units affected by the rule, including the four units at Colstrip). In Montana, those rates overall are 1,534 pounds/megawatt-hour (lb/MWh) in the interim and 1,305 lb/MWh by 2030. In 2012, Montana's rate was 2,481 lb/MWh. To put that in perspective, Colstrip Units 3 and 4 alone annually emit more than the state's final target.

Under the Clean Power Plan, Montana is expected to partner with other states. An EPA fact sheet states: "[The standards] are designed to be met as part of the grid and over time."

Washington is positioned to meet its federal emissions rate goals, regardless of whether Colstrip is retired, and may be a potential partner for Montana. The Clean Power Plan sets the stage for emissions cap-and-trade programs, with utilities and plant owners buying and selling allowances.

## Snapshot in Time

The Colstrip Generating Station was constructed in the 1970s and 1980s in response to rising national prices and concerns about the availability of baseload power in the Northwest. In the 1960s, the Bonneville Power Administration announced that most of its hydroelectric power would be consumed by mandatory preference consumers (BPA is directed to market federally produced hydroelectric power to customers, giving preference and priority in power sales to public bodies and cooperatives). Utilities in the Northwest were concerned and sought alternative baseload power. PSE joined Montana Power Company to construct Colstrip Units 1 and 2, and soon after, planning started for Units 3 and 4. Colstrip's population grew from 2,300 to 7,500 during construction of Units 3 and 4 in the 1980s.<sup>10</sup>

Even then, Colstrip wasn't without controversy. Construction came at a time when Montana had adopted a new constitution that placed increased value on the environment. The Montana Legislature also enacted laws in response to the project. The Major Facility Siting Act — before being amended in 2001 (Chapter 293, Laws of 2001) — required environmental permits to be secured before construction of a new electrical generating plant could begin. It took nearly 10 years and numerous court cases for Montana Power Company to construct Colstrip Units 3 and 4.

Coal was the subject of a book by K. Ross Toole titled *The Rape of the Great Plains: Northwestern America, Cattle and Coal*. Colstrip and the relationship between Montana's coal interests and its "Washington cohorts" was an issue that Toole often discussed. According to Toole: "With 80 percent of the power to be generated at the four Colstrip plants destined for Oregon and Washington, Montana became an area of self-sacrifice to benefit the western two-thirds of the country."<sup>11</sup>

## Montana's Role in the Discussion

Montana legislators are trying to play a role in the future of Colstrip. In 2015, Sen. Duane Ankney (R-Colstrip) and Sen. Jim Keane (D-Butte) introduced Senate Bill 402 in response to legislation in Washington to close Units 1 and 2. Under SB 402, an electrical company that retired a unit or units before 2025 would have paid a total of \$80 million over 10 years. The legislation also required an electrical company to provide two-year notice of the closure to the Montana Public Service Commission, the governor, and the Department of Revenue. A quarter of the impact fee would have gone to the school districts where the coal-fired generating unit is located, 25 percent to the general fund, 25 percent to the Department of Commerce to administer a workforce redevelopment and training grant program, and 25 percent to the county where the coal-fired generating unit is located. However, the legislation died.

In September 2015, the Energy and Telecommunications Interim Committee voted 6-2 to send comments to the Washington Utilities and Transportation Commission discussing the potential costs of decommissioning and remediation of Colstrip, including tax and other economic impacts on Rosebud County.<sup>12</sup>

Members of the ETIC and the Environmental Quality Council met in Spokane in late October with members of the

<sup>10</sup> Kim Briggeman, "C Is for Colstrip: Where Power Plants Bring a Hive of Activity," *Missoulian*, June 30, 2014, [http://missoulian.com/news/state-and-regional/c-is-for-colstrip-where-power-plants-bring-a-hive/article\\_d8b0c606-ff15-11e3-b32c-001a4bcf887a.html](http://missoulian.com/news/state-and-regional/c-is-for-colstrip-where-power-plants-bring-a-hive/article_d8b0c606-ff15-11e3-b32c-001a4bcf887a.html).

<sup>11</sup> Clark C. Spence, *Montana: A Bicentennial History* (New York: Norton, 1978).

<sup>12</sup> Energy and Telecommunications Interim Committee, 64th Montana Legislature, "RE: UE-151500," Sept. 14, 2015, <http://leg.mt.gov/content/Committees/Interim/2015-2016/Energy-and-Telecommunications/Meetings/Sept-2015/WUTC.pdf>.

Washington Legislature. The Oct. 28 meeting was hosted by the Washington Legislature's Senate Energy, Environment and Telecommunications Committee, led by Sen. Doug Ericksen (R-Ferndale). The ETIC in September selected Sen. Ankney and Sen. Cliff Larsen (D-Missoula) to attend the meeting, and the Environmental Quality Council selected Sen. Keane and Sen. Rick Ripley (R-Wolf Creek) to participate in the meeting. Representatives of the Montana Public Service Commission and the Montana Governor's Office also participated.

Sen. Ericksen, who carried the 2015 Washington bill to close Units 1 and 2, admitted that a dialogue with Montana did not occur prior to the introduction of legislation in 2015. He encouraged Washington and Montana to have a "reasoned and rational discussion" about Colstrip Units 1 and 2. Montana legislators discussed the economic and social impacts that closure of Colstrip would have on Rosebud County and on Montana overall. The Montana legislators asked the Washington legislators to cooperate with Montana, to consider the impacts to the employees at the facilities and the associated mine, and to consider the overall economic impacts on Montana. Sen. Ericksen said he wants to hear from Montana legislators in 2016.

In late November, at the invitation of Sen. Ankney, members of the Washington Legislature visited Colstrip and toured the facility.

The full ETIC meets Jan. 15 and will likely review Colstrip-related legislation that was preintroduced in the Washington Legislature. The ETIC may provide comments regarding that legislation.